

Thomas H. Billingslea, Jr., Chapter 13 Trustee
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:)	Case No.: 10-14103-LT13
)	
Nancy Tarsha)	CHAPTER 13 TRUSTEE'S MOTION FOR
)	DISMISSAL WITH A REQUEST FOR A
)	180-DAY BAR FROM FILING.
)	
Debtor(s))	Date: September 14, 2010
)	Time: 2:00pm
)	Dept: 1
)	
)	

TRUSTEE'S POSITION

Thomas H. Billingslea, Jr., the Standing Chapter 13 Trustee hereby moves to dismiss Debtor's filed petition with a request that the Court impose a 180-day bar from re-filing a chapter 13 petition. The grounds for the opposition and motion are as follows:

I. PRIOR FILINGS

Debtor has filed THREE previous bankruptcy petitions since March of this year. Debtor's filing history is:

- 1) 10-13646-TA13 (Central District of California)
Chapter 13; filed 03/23/10; dismissed 04/20/10 for failure to file schedules, statements, and a Chapter 13 plan.
- 2) 10-08210-LT13 (Southern District of California)
Chapter 13; filed 05/13/10; dismissed 05/18/10 for failure to file Certificate of Credit Counseling.
- 3) 10-08746-LT7 (Southern District of California)
Chapter 7; filed 05/21/10; dismissed 06/22/10 for failure to file Declaration re Electronic filing.

4) 10-14103-LT13 (Instant Petition)

Chapter 13; filed 8/8/10; Debtor filed the petition and schedules, yet no certificate of credit counseling or chapter 13 plan has been filed to date.

II. LACK OF GOOD FAITH

- 1) Debtor's repeat filings demonstrate a lack of good faith.¹
- 2) Debtor's voluntary petition fails to list all prior filings.
- 3) Debtor's voluntary petition is missing page 3 with Debtor's Signature.
- 4) Debtor's petition is missing schedule A; schedule I reflects no income; schedule J shows no monthly income; and Form B22C is inconsistent with schedules I and J.
- 5) All prior cases included the defect of a failure to file either the: schedules; statements and/or plan; or certificate of credit counseling per 109(h).
- 6) There has been no change in circumstance shown by Debtor that would suggest that this Chapter 13 petition would be successful.

CONCLUSION

For the foregoing reasons and a review of the totality of the circumstances, the Trustee requests that the Court dismiss the case and impose a 180-day bar from re-filing Chapter 13 petitions on Debtor. The Trustee further requests that Debtor must obtain written leave of the Court before filing a subsequent bankruptcy.

Dated: August 12, 2010.

Respectfully Submitted,

/s/ Todd Headden
 Todd Headden, Research Attorney for
 Thomas H. Billingslea, Jr.,
 Chapter 13 Trustee

¹ *In re Glauser*, 2007 WL 2221413 (Bankr. E.D.Pa) citing *In re Oglesby*, 158 B.R. 602 (E.D.Pa. 1993). In *Glauser*, the Court noted the factors considered by the *Oglesby* Court in measuring the good faith of repeat filings: (1) length of time between the prior cases and the present one; (2) whether the successive cases were filed to obtain favorable treatment afforded by the automatic stay; (3) effort made to comply with prior case plans; (4) Congress's intent debtor achieve his goals in a single case; (5) any other facts the court finds relevant relating to the debtor's purpose in making successive filings. "While there is no per se rule against serial filings, see *Johnson v. Home State Bank*, 501 U.S. 78, 87-88 (1991), where the subsequent case is a mere continuation of the prior case and is filed solely to circumvent an adverse ruling by the court, bad faith is implicated." *Glauser* at 3.

CERTIFICATE OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of eighteen and am not a party to the within action. My business address is: Thomas H. Billingslea, Jr., Chapter 13 Trustee, 530 B Street, Suite 1500, San Diego, CA 92101.

I served the following document described as: **CHAPTER 13 TRUSTEE'S MOTION FOR DISMISSAL WITH A REQUEST FOR A 180-DAY BAR FROM FILING** on the parties listed below by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at San Diego, CA addressed as follows:

DEBTOR

Nancy Tarsha
424 Cox Road
San Marcos, CA 92069.

DEBTOR'S ATTORNEY

Michael T. Pines
732 N. Coast Highway 101, Ste. B
Encinitas, CA 92024

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 12, 2010
San Diego, CA

/s/ Todd Headden
Todd Headden